

REMARKS

Present Status of Application

The Examiner is thanked for the thorough examination of the present application and the withdrawal of the previous rejections. The Office Action, however, continued to reject all pending claims 20-23 and 25, which were added in the response to the Office Action of March 27, 2006. More specifically, claims 20, 22, and 23 stand rejected under 35 U.S.C 102(b) as allegedly anticipated by Choi (US patent Number 5,590,113). In addition, claim 21 is rejected under 35 U.S.C 103(a) as allegedly unpatentable over Choi, in view of Ota et al (US patent number 6,721,263). Further, claim 25 is rejected under 35 U.S.C 103(a) as allegedly unpatentable over Choi in view of Shirashima et al. (US patent number 6,275,465).

In response, Applicant has amended independent claim 20 to overcome the rejections under 35 U.S.C. 102(b) and 103(a). After entry of the foregoing amendments, claims 20-23 and 25 remain pending in the application, and for at least the reasons set forth herein, Applicant requests that all rejections be reconsidered and withdrawn.

Discussion of Office Action Rejections

Applicant respectfully requests reconsideration of the rejections for at least the reasons set forth below.

Independent claim 20 (as amended herein) recites:

- 20. A disk-anchoring device of an optical disk device, comprising:
 - a substrate;
 - a clamper frame for holding a clamper, pivoted on said substrate and having a first protrusion portion;
 - a sliding element, movably mounted on said substrate and having an inclined portion and a second protrusion portion;

wherein, when said sliding element is moved on said substrate, ***said first protrusion portion is relatively moved along an inclined surface of said inclined portion*** so as to swing said clamber frame;
wherein, after a disk is loaded into the optical disk device, said second protrusion portion abuts and pushes said first protrusion portion.

(*Emphasis added.*) Claim 20 patently defines over the cited art for at least the reason that the cited art fails to disclose the features emphasized above.

As amended, independent claim 20 defines a disk-anchoring device of an optical disk device for clamping an optical disk. The claimed disk-anchoring device comprises a clamber frame having a first protrusion portion and a sliding element having an inclined portion. Significantly, when the sliding element is moved on a substrate, the first protrusion portion is relatively moved along an inclined surface of the inclined portion.

In operation, as the sliding element 6 is moved on the substrate 1, the first protrusion portion 31 of the clamber frame 3 is relatively moved along the inclined surface of the inclined portion 63 from the high position to the low position or from the low position to the high position. As illustrated in figures 6 and 7 of the specification, figure 6 shows that the first protrusion portion 31 of the clamber frame 3 is at the high position of the inclined portion 63, and then, the first protrusion portion 31 is relatively moved along the inclined surface of the inclined portion 63 to the low position of the inclined portion 63 as shown in figure 7.

In contrast, Choi discloses a disc clamping device having a moving plate 224 positioned on a base plate 216, wherein an arcuate portion 246 is provided in the lower corner of the rear edge of moving plate 224. When moving plate 224 is moved toward the rear end of base plate 216, arcuate portion 246 of moving plate 224 forces actuating

rod 238 to move it rearward so as to rotate the clamping arm 222 (see e.g., column 5, lines 11-22). In other words, the actuating rod 238 is forced by the arcuate portion 246 directly to rotate the clamping arm 222. Accordingly, Choi does not teach that the actuating rod 238 is moved along an inclined portion. Actually, the actuating rod 238 disclosed by Choi does not contact any inclined portion.

Therefore, Choi fails to disclose all of the claimed elements of claim 20, and therefore does not impact the patentability of claim 20. For at least this reason, the rejection of claim 20 should be withdrawn. As claims 21-23 and 25 depend from claim 20, they patently define over Choi for at least the same reason.

As a separate and independent basis for the patentability of claims 21 and 25, Applicant submits that the combination of Ota and Cho and the combination of Shirashima and Choi does not render obvious these claims. In this regard, the Office Action combined Ota with Choi to reject claim 21 on the solely expressed basis that “because this will further support the disk in place on the disk table.” (Office Action, p. 4). Similarly, the Office Action combined Shirashima with Choi to reject claim 21 on the solely expressed basis that “because this will swing the clasper to the open position and allow the disk to be released, as stated by Shirashima.” (Office Action, p. 5). These rationales are both incomplete and improper in view of the established standards for rejections under 35 U.S.C. § 103.

In this regard, the MPEP section 2141 states:

Office policy has consistently been to follow Graham v. John Deere Co. in the consideration and determination of obviousness under 35 U.S.C. 103. As quoted above, the four factual inquiries enunciated therein as a background for determining obviousness are briefly as follows:

- (A) Determining of the scope and contents of the prior art;
- (B) Ascertaining the differences between the prior art and the claims in issue;
- (C) Resolving the level of ordinary skill in the pertinent art; and
- (D) Evaluating evidence of secondary considerations.

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BASIC CONSIDERATIONS WHICH APPLY TO OBVIOUSNESS REJECTIONS

When applying 35 U.S.C. 103, the following tenets of patent law must be adhered to:

- (A) The claimed invention must be considered as a whole;
- (B) The references must be considered as a whole and must suggest the desirability and thus the obviousness of making the combination;
- (C) The references must be viewed without the benefit of impermissible hindsight vision afforded by the claimed invention and
- (D) Reasonable expectation of success is the standard with which obviousness is determined.

Hodosh v. Block Drug Co., Inc., 786 F.2d 1136, 1143 n.5, 229 USPQ 182, 187 n.5 (Fed. Cir. 1986).

Simply stated, the Office Action has failed to at least (1) ascertain the differences between and prior art and the claims in issue; and (2) resolve the level of ordinary skill in the art. Furthermore, the alleged rationales for combining the references (i.e., "... further support the disk..." and "... allow the disk to be released") embody clear and improper hindsight rationale. For at least this additional reason, Applicant submits that the rejections of claims 21 and 25 are improper and should be withdrawn.

Conclusion

Accordingly, Applicants respectfully submit the claim 20-23 and 25 to overcome the rejections. Specifically, the present application cannot be anticipated by Choi. In view of foregoing, it is believed that all pending claims are in proper condition for allowance.

No fee is believed to be due in connection with this amendment and response to Office Action. If, however, any fee is believed to be due, you are hereby authorized to charge any such fee to deposit account No. 20-0778.

Respectfully submitted,

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